

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: CONAGRA PEANUT)	
BUTTER PRODUCTS LIABILITY)	CIVIL ACTION NO.
LITIGATION)	1:07-MD-1845-TWT
)	
*****)	*****
)	
BOBBY JOE KIDD,)	
)	CIVIL ACTION NO.
Plaintiff,)	1:07-CV-01415-TWT
)	
v.)	
)	
CONAGRA FOODS, INC., et al.,)	
)	
Defendants.)	
_____)	

DEFENDANTS CONAGRA FOODS, INC.'S AND
WAL-MART STORES, INC.'S RULE 26(a)(2)
DISCLOSURE OF CASE-SPECIFIC MEDICAL CAUSATION
EXPERT WITNESSES

Defendants ConAgra Foods, Inc., ("ConAgra") and Wal-Mart Stores, Inc. ("Wal-Mart"), by and through undersigned counsel, hereby provide their case-specific Medical Causation Expert Disclosures in accordance with Federal Rule of

Civil Procedure 26(a)(2), Local Rule 26.1, and the Initial Case Management Order entered by the MDL 1845 Court¹ and state:

A. EXPERT WITNESSES RETAINED FOR PURPOSES OF THIS LITIGATION

ConAgra and Wal-Mart hereby disclose the following individuals who have been retained by ConAgra and Wal-Mart to provide expert testimony in connection with this action:

1. **Samuel I. Miller, M.D.**
University of Washington Dept. of Medicine
K-140, Health Sciences Bldg.
Box 357710
Seattle, WA 98195-7710
Telephone: (206) 616-5107

Samuel I. Miller, M.D. is a professor of medicine, microbiology, and genome sciences, and an expert on infectious diseases, especially those caused by enteric pathogens. He has particular expertise in disorders caused by *Salmonella*. ConAgra previously designated Dr. S. Miller as an individual retained to provide expert testimony in MDL 1845. (See 1:07-MD-01845-TWT, Dkt. No. 994.) A copy of his expert report submitted in MDL 1845 is attached hereto as Exhibit 1 (the “S. Miller Report”). Defendants hereby incorporate that disclosure and all opinions contained therein. Dr. S. Miller is expected to testify and opine regarding

¹ (See October 23, 2007 Case Management Order at § VII.C.6., p. 21-22, 1:07-md-1845, Dkt. No. 60.)

infectious disease, and general and specific causation, including but not limited to the causes of the symptoms of acute gastroenteritis and the sequellae of enteric infections, as set forth more fully in the S. Miller Report. Dr. S. Miller is also expected to testify with respect to infectious and non-infectious diseases whose symptoms may resemble those of salmonellosis, the need for culture to diagnose salmonellosis, and the proper interpretation of governmental agency publications as applied to these cases.

Furthermore, Dr. S. Miller is expected to testify that there are numerous reasons to conclude that Bobby Joe Kidd's symptoms were not related to the ingestion of ConAgra peanut butter, as set forth more fully in his expert affidavit (the "S. Miller Aff.", attached hereto as Exhibit 2), particularly since the only known pathogen isolated from ConAgra's product has been *Salmonella Tennessee* and that Bobby Joe Kidd did not develop symptoms, signs, and lab data characteristic of salmonellosis, the food disorder that *Salmonella* can cause.

In support of his testimony, Dr. S. Miller may use as exhibits any of the materials he relied upon in forming his opinions, including any exhibits referred to in or attached to the S. Miller Report and S. Miller Aff., as well as any exhibit relied upon or used by any other testifying expert in the litigation. Dr. S. Miller reserves the right to add to the exhibits he will use at trial.

A copy of Dr. S. Miller's curriculum vitae, attached hereto as Exhibit 1-A, is included with the S. Miller Report and includes a list of publications authored by Dr. S. Miller within the preceding ten (10) years. Dr. S. Miller is being compensated at a rate of \$300 per hour for his expert services and testimony in this case.

2. **Douglas L. Weed, M.D., M.P.H., Ph.D.**
3706 Farragut Ave.
Kensington, MD 20895
Telephone: (301) 980-0197

Douglas L. Weed, M.D., M.P.H., Ph.D. is a physician-epidemiologist with particular expertise in the methodology of determining both general and specific causation of illnesses. ConAgra previously designated Dr. Weed as an individual retained to provide expert testimony in MDL 1845. (*See* 1:07-MD-01845-TWT, Dkt. No. 994.) A copy of his expert report submitted in MDL 1845 is attached hereto as Exhibit 3 (the "D. Weed Report"). Dr. Weed is expected to testify and opine regarding medical, biostatistical, epidemiologic, and causation issues raised in this litigation, including the diagnosis and differential diagnosis of salmonellosis, the identification of its source, and the proper interpretation of governmental agency publications as applied to these cases, all as set forth more fully in the D. Weed Report.

Dr. Weed is also expected to testify, as more fully set forth in his expert affidavit (the “D. Weed Aff.”, attached hereto as Exhibit 4), that it is highly unlikely that *Salmonella Tennessee* was Bobby Joe Kidd’s etiology and highly unlikely that ConAgra’s product caused his illness. Dr. Weed is expected to testify that the likeliest explanation for Bobby Joe Kidd’s illness is the effects of GERD aggravated by medicines he was advised to stop using.

All of Dr. Weed’s opinions are expressed to a reasonable degree of medical and scientific certainty. In support of his testimony, he may use as exhibits any of the materials he relied upon in forming his opinions, including any exhibits referred to in or attached to the D. Weed Report and D. Weed Aff., as well as any exhibit relied upon or used by any other testifying expert in the litigation. Dr. Weed reserves the right to add to the exhibits he will use at trial.

Dr. Weed’s curriculum vitae, attached hereto as Exhibit 3-A, includes a list of publications authored by Dr. Weed within the last ten (10) years and is attached to his report. A list of cases in which Dr. Weed has testified and/or been deposed as an expert within the last four (4) years is also attached to his report and is attached hereto as Exhibit 3-B. Exhibits to the D. Weed Report are attached hereto as Exhibit 3-C. Dr. Weed is being compensated at a rate of \$450 per hour for this case.

B. RESERVATION OF RIGHTS

1. ConAgra and Wal-Mart reserve the right to call as expert witnesses any other experts identified by Plaintiff in his Rule 26(a)(2) Disclosures.

2. ConAgra and Wal-Mart reserve the right to respond to any additional expert testimony that Plaintiff may be permitted to designate or submit in this case or that otherwise may be permitted by the Court pursuant to the Federal Rules of Civil Procedure.

Respectfully submitted this 13th day of June, 2011.

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/s/ James F. Neale

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Inc. and Wal-Mart Stores, Inc.*

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June, 2011, I electronically filed the foregoing pleading with Clerk of Court using the ECF system, which sent notification of such filing to lead and liaison counsel and all counsel of record.

/s/ James F. Neale
James F. Neale